



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/595,141	03/03/2006	Grant Thomson	041129-0117	3306
22428 7590 08/02/2007 FOLEY AND LARDNER LLP SUITE 500 3000 K STREET NW WASHINGTON, DC 20007			EXAMINER NUR, ABDULLAHI	
			ART UNIT 2877	PAPER NUMBER
			MAIL DATE 08/02/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

21

Office Action Summary	Application No. 10/595,141	Applicant(s) THOMSON ET AL.	
	Examiner Abdullahi Nur	Art Unit 2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date <u>3/3/2006</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-7 are rejected under 35 U.S.C. 102(b) as being anticipated by Naya (US 2002/0126290 A1).

As to claim 1, Naya teaches an apparatus including a radiation transparent window for supporting a sample on a surface 11, an optical system for directing radiation onto the sample through the window (Fig. 1) and for receiving radiation reflected from the sample through the window, wherein the apparatus includes a corrective optics device 21 arranged to increase the accuracy of imaging of the surface of the sample (paragraph 0063, lines 12-13).

As to claim 2, Naya teaches all as applied to claim 1, and in addition teaches the corrective optics device 21 includes a wedge-shape prism.

As to claim 3, Naya teaches all as applied to claim 1, and in addition teaches corrective optics device is located adjacent a focus of the optical system (Fig.1).

As to claim 4, Naya teaches all as applied to claim 1, and in addition teaches corrective optics device 21 is located to receive radiation from the sample (Fig.1).

As to claim 5, Naya teaches all as applied to claim 1, and in addition teaches corrective optics device 21 is located adjacent a reflector (Fig. 1; where incident radiation is reflected from interface 11a).

As to claim 6, Naya teaches all as applied to claim 5, and in addition teaches corrective optics device 21 has a reflecting surface formed on a face of the device 21a.

As to claim 7, Naya teaches all as applied to claim 1, and in addition teaches an apparatus includes an imaging detector 23 arranged to receive radiation from the optical system.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

5. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Naya in view of well known in the art.

As to claim 8, Naya teaches all as applied to claim 1, except for applying pressure to urge the sample into close contact with the window surface. It is well known in the art to use means for holding a sample of a surface.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate means for holding a sample on a surface into Naya's invention in order to reduce air contents between the sample and surface.

As to claims 9 and 10, Naya teaches all as applied to claim 1, for except for the analyzer. It is well know in the art to use data analyzer in conjunction with spectrometers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate analyzer into Naya's invention in order to provide pertinent analysis on the data obtained by the detector.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Abdullahi Nur whose telephone number is (571) 270-1298. The examiner can normally be reached on Monday - Friday, 8 a.m. to 5p.m. EST.

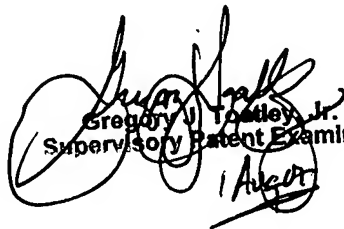
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Toatley can be reached on 571-272-2059. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Abdullahi Nur *AN*

Patent Examiner

AU 2877


Gregory J. Tooley, Jr.
Supervisory Patent Examiner
1 Aug 07